

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 835 CS

Affordable Housing

SPONSOR(S): Attkisson

TIED BILLS:

IDEN./SIM. BILLS: CS/SB 934

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Business Regulation Committee</u>	<u>15 Y, 2 N, w/CS</u>	<u>Livingston</u>	<u>Liepshutz</u>
2) <u>Growth Management Committee</u>	<u>9 Y, 0 N, w/CS</u>	<u>Grayson</u>	<u>Grayson</u>
3) <u>Transportation & Economic Development Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Commerce Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

HB 835 addresses two aspects of the state's affordable housing issue by addressing the relocation of mobile homes when a land use change results in the eviction from a mobile home park; and by providing homeownership assistance to certain K-12 classroom teachers. Specifically, the bill creates and amends law to accomplish the following:

Mobile Home Parks

- Requires local governments and community development agencies to provide incentives to encourage continued use of mobile home parks and to use all available funding sources to assist in the relocation of mobile homes resulting from the redevelopment of mobile home parks.
- Provides a late fee for a mobile home park owners' untimely payment of a relocation fee into the Florida Mobile Home Relocation Trust Fund.
- Provides a 1 year time limit during which a mobile home owner who has been required to move from a mobile home park may file a claim for relocation expenses from the Florida Mobile Home Relocation Corporation. Under certain conditions the time limit is extended to 2 years.
- Provides Legislative intent encouraging mobile home owners to organize as a homeowners' association for the purpose of negotiating a right of first refusal with a mobile home park owner on the sale of a mobile home park.
- Requires certain documentation and public disclosure when a governmental entity approves an application for rezoning, or other official action, that results in the removal or relocation of mobile home owners residing in a mobile home park.

Homeownership Assistance for K-12 Classroom Teachers

- Establishes a program to provide homeownership down payment assistance to K-12 classroom teachers who are certified in a critical need area of exceptional student education, mathematics, science, or reading.
- Appropriates unspecified amount from the Local Government Trust Fund to assist in the recruitment and retention of eligible teachers.

The fiscal impact of the bill to local governments is indeterminate regarding: the use of incentives to encourage continued use of mobile home parks and the use of available funding sources to assist in mobile home relocation; and the creation of documentation relating to the approval of a rezoning application or other official action that results in the removal or relocation of mobile home owners. The bill does provide an unspecified appropriation from the Local Government Housing Trust Fund to assist in the recruitment and retention of teachers.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0835c.GM.doc

DATE: 3/31/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - The bill increases benefits for potential homeownership within the current framework that is designed to support affordable housing goals.

Ensure lower taxes - The bill imposes late fees for failure to make timely payments to the Florida Mobile Home Relocation Corporation.

Safeguard individual liberty - The bill increases the options of some individuals in the conduct of their own affairs by making affordable housing opportunities available to them.

Empower families - The bill provides affordable housing opportunities thereby serving to benefit families.

B. EFFECT OF PROPOSED CHANGES:

Present Situation – Affordable Housing

Due to dramatic increases in housing costs coupled with modest rises in incomes, many low income and moderate income Florida families find it increasingly more difficult to find safe, decent and affordable rental and single family housing. For many individuals and families, mobile homes provide an affordable housing opportunity.

Chapter 420, F.S., the “State Housing Strategy Act” provides a goal of ensuring by 2010 that decent and affordable housing is available for all state residents. The chapter establishes law and provides a series of programs to achieve the goal. The chapter also establishes the Florida Housing Finance Corporation.

The Florida Housing Finance Corporation

The Florida Housing Finance Corporation (FHFC) was created by the Legislature as an entrepreneurial public corporation organized to provide and promote the public welfare by administering the governmental function of financing or refinancing housing and related facilities in Florida. The FHFC administers various programs which facilitate the development and purchase of affordable housing for Floridians. These programs are financed through a variety of state, federal and local sources. One such program is the Florida Homeownership Assistance Program (HAP).

State Housing Initiatives Partnership Program (SHIP)

The Corporation administers the State Housing Initiatives Partnership program (SHIP), which provides funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve very low, low and moderate income families.

SHIP funds are distributed on an entitlement basis to all 67 counties and 48 Community Development Block Grant entitlement cities in Florida. The minimum allocation is \$350,000 and the maximum allocation is over \$9 million. In order to participate, local governments must establish a local housing assistance program by ordinance; develop a local housing assistance plan and housing incentive strategy; amend land development regulations or establish local policies to implement the incentive strategies; form partnerships and combine resources in order to reduce housing costs; and ensure that

rent or mortgage payments within the targeted areas do not exceed 30% of the AMI limits, unless authorized by the mortgage lender.

A minimum of 65% of the funds must be spent on eligible homeownership activities; a minimum of 75% of funds must be spent on eligible construction activities; at least 30% of the funds must be reserved for very-low income households (up to 50% of the AMI); an additional 30% may be reserved for low income households (up to 80% of AMI); and the remaining funds may be reserved for moderate-income households (up to 120% of AMI.). It is important to note that no more than 5% of SHIP funds may be used for administrative expenses. However, if a local government makes a finding of need by resolution, a local government may use up to 10% for administrative expenses. Funding for this program was established by the passage of the 1992 William E. Sadowski Affordable Housing Act. Funds are allocated to local governments each month on a population-based formula. These funds are derived from the collection of documentary stamp tax revenues, which are deposited into the Local Government Housing Trust Fund. Total actual disbursements are dependent upon these documentary stamp collections.

Florida Homeownership Assistance Program

The HAP was created by s. 420.5088, F.S., for the purpose of assisting low-income persons in purchasing a home by reducing the cost of the home with below-market construction financing; by reducing the amount of down payment and closing costs paid by the borrower to a maximum of five percent of the purchase price; or by reducing the monthly payment to an affordable amount for the purchaser. Loans are made available at an interest rate not to exceed three percent. The balance of any loan is due at closing if the property is sold or transferred.

Present Situation – Mobile Home Housing

Florida Mobile Home Park Regulation – In General

The landlord-tenant relationship between a mobile home park owner and a mobile home owner in a mobile home park is a unique relationship. Traditional landlord-tenant concepts are thought inapplicable where the land is owned by the park and the homes on the property are owned by the home owner. This relationship is impacted by the high cost of moving a mobile home. Chapter 723, F.S, the “Florida Mobile Home Act” governs the relationship between mobile home park owners and mobile home owners, including financial assistance to home owners who are displaced when the property, under certain circumstances, is no longer used as a mobile home park.

A mobile home park of 9 or fewer lots is not regulated by ch. 723, F.S. Currently, there are 321,549 mobile home lots and 2,601 mobile home parks filed with the Division of Land Sales, Condominiums, and Mobile Homes, Department of Business and Professional Regulation (DBPR).

Financial Assistance for Mobile Home Relocation Expenses

Section 723.0612, F.S., relates to a change in use of the land comprising a mobile home park, or a change in the portion upon which the tenant resides. It also addresses relocation expenses and payments by a mobile home park owner. This section provides that if a mobile home owner is required to move due to a change in use of the mobile home park property, and the mobile home owner meets certain conditions, then the mobile home owner is entitled to financial assistance to help offset certain moving expenses.

Florida Mobile Home Relocation Trust Fund

Section 723.06115, F.S., establishes the Florida Mobile Home Relocation Trust Fund within DBPR. The relocation trust fund was created to provide revenues for payments to mobile home owners under the relocation program and for the administrative costs associated with managing the trust fund.

Section 723.007, F.S., imposes an annual assessment of \$4.00 per lot on mobile home lots located within mobile home parks. The fee is collected by the mobile home park owner and is paid to the Division of Land Sales, Condominiums, and Mobile Homes. These revenues are deposited into the Florida Land Sales, Condominiums, and Mobile Homes Trust Fund to partially fund operations of the division. Additionally, this section imposes a one dollar surcharge on the annual assessment for deposit in the relocation trust fund. Section 320.08015, F.S., relating to motor vehicles, imposes an additional one dollar annual license tax on mobile homes for deposit in the relocation trust fund.

Florida Mobile Home Relocation Corporation

Section 723.0611, F.S., relates to the Florida Mobile Home Relocation Corporation (Corporation). The Corporation is administered by a board of directors made up of six members. The Corporation is authorized to manage the relocation trust fund.

Currently, as a result of being required to relocate due to a change in the use of the mobile home park, an owner of a mobile home has the option of being reimbursed for moving expenses, or under s. 723.0612(7), F.S., a mobile home owner may elect to sell the mobile home rather than move it. When the mobile home owner makes application for payment and is approved by the Corporation, the mobile home owner is then authorized to receive compensation from the Corporation which is paid out of the relocation trust fund.

The amount of the payment is the actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or \$3,000 for a single-section mobile home, or \$6,000 for a multi-section mobile home, whichever is less. Moving expenses are defined to include the cost of taking down, moving, and setting up the mobile home in a new location. The mobile home park owner is required to make payment to the corporation in the amount of \$2,750 per single-section mobile home and \$3,750 per multi-section mobile home for each application for moving expenses due to a change in land use. These payments are due within 30 days after receipt of the invoice from the Corporation. Payments received by the Corporation are deposited in the relocation trust fund.

Sale of a Mobile Home Park

The mobile home owners in a mobile home park have a statutory right of first refusal to purchase the mobile home park under certain circumstances. In a mobile home park where the mobile home owners have created a homeowners' association, if the mobile home park owner "offers [the] mobile home park for sale", the mobile home park owner must notify the homeowners' association of the offer. This requirement applies when the mobile home park is offered for sale by the owner to the general public or another individual. A mobile home park owner who receives an unsolicited offer to purchase the mobile home park is under no duty to offer the homeowners' association the opportunity to purchase the mobile home park.

Local Zoning Requirements

Section 723.083, F.S., prohibits any local or state government agency from rezoning (or taking "any other official action") which would result in the removal or relocation of mobile home owners residing in mobile home parks, unless the agency first determines that there are adequate mobile home parks or other suitable facilities in existence for relocating the mobile home owners. In an informal opinion issued to Pinellas County, the Attorney General advised that the phrase "adequate mobile home parks or other suitable facilities" means the local government must consider all facilities suitable for the relocation of the mobile home owners, not their mobile homes. See Informal Opinion of Attorney General Jim Smith (January 3, 1986). The opinion includes apartments, trailer parks, and boarding houses as examples of "other suitable facilities" which a government may consider for the relocation of owners.

Present Situation - State Teacher Shortage

Historically, two trends have determined the need for classroom teachers: teacher turnover and student enrollment. The Florida Department of Education's official teacher recruiting website¹ currently lists four programs that provide housing assistance to teachers:

1. The TEACHER NEXT DOOR PROGRAM offers federal Department of Housing and Urban Development-owned, single family homes to public and private school teachers at a 50 percent discount. To be eligible, teachers must be employed full-time and agree to make the home their sole residence for three years following the purchase. In addition, teachers must work in the area in which the home is located.
2. The TEACHER ZERO DOWN PROGRAM, sponsored by Bank of America, helps teachers overcome one of the biggest obstacles to home ownership—the down payment. This program provides zero percent financing with little or no cash at closing.
3. The TEACHER FLEX PROGRAM, a Bank of America program, provides teachers with home loans that do not require a large savings or an extensive credit history. This program requires a three percent down payment with \$500 from personal funds and little cash at closing.
4. The APARTMENT ASSISTANCE/RESIDENTIAL SUBSIDIES PROGRAM, created by Equity Residential Properties Trust, in partnership with the Department of Education, reduces teachers' rent by providing a zero application fee, taking \$300 off move-in fees, and providing \$500 credit towards the purchase of a home.

Teachers also may qualify for various FHFC programs, depending on their income and location.

Effect of proposed changes – Mobile Homes

Disclosure notice

The bill requires a mobile home park owner to expand the current 6 month notice of the projected change in the use of the park which is required to be given to affected home owners, to include a statement of the existence of the corporation and the relocation trust fund. The notice must also state that the resident may be entitled to receive financial assistance from the fund and information regarding the program may be obtained from the DBPR.

Sources of assistance

The bill recognizes the loss of affordable housing which results when the land use for a mobile home park changes and its residents are forced to relocate. The bill requires a local government or community redevelopment area (CRA) with a mobile home park within its jurisdiction which is closing due to a change in the use of land to use available funding sources to help offset the financial impacts. Funds are to be used to assist with the cost of relocating mobile homes, assist with the purchase of a new mobile home if relocation of the existing home is not possible, and assist the homeowner in relocating to other types of housing.

The bill specifies that the financial assistance be made as a supplement to payments provided under the relocation trust fund. Additionally, the bill requires that in order to receive supplemental assistance from the local government or CRA, the displaced mobile home owner must qualify as a very low income, low income, or moderate income person as defined by statute.

¹ <http://www.teachinflorida.com>

The bill requires a local government or CRA to use tax increment financing, urban infill and redevelopment funds, general revenue, housing loan assistance program funds, documentary stamp tax revenues from the redevelopment of the mobile home park property which is available to the local government, and impact and permit fees derived from the redevelopment of the park property. The local government or CRA may also use other available sources.

The bill requires local governments to approve the rezoning of property for the development of mobile home parks to provide new homes, affordable housing, or to accommodate the relocation of mobile home owners from a park that is closing due to a change in land use. A local government or CRA is authorized to enter into a development agreement that has a term of 10 years or less with the owner of a mobile home park to encourage the continued use of the mobile home park for affordable housing and may contain incentives, such as, transferable development credits to the community, tax incentives, or housing assistance to the mobile home park owner.

The Department of Community Affairs is required to provide technical assistance to local governments that wish to promote housing assistance for mobile home park owners who provide affordable housing to park residents.

Relocation payments

The bill imposes a late fee if a mobile home park owner who is changing the land use for a mobile home park fails to make the required payment to the relocation trust fund for each single-section and multi-section mobile home for which the home owner has made application for moving expenses. The late fee ranges from 10 percent to 25 percent depending on when the payment is made and the fee is imposed beginning 30 days after receipt of the invoice for payment.

The bill prohibits a mobile home owner from making an application for funding if the applicant has settled a claim or cause of action against the corporation, park owner, or the park owner's successors in interest directly related to the change in the use of the land for the mobile home park. The bill limits the period for filing an application for moving expenses to 1 year after the expiration of the eviction period as established in the notice of the change of land use.

Documentation

The bill requires a governmental entity to prepare a written document substantiating that adequate mobile home parks or other suitable facilities exist for the relocation of the home owners before the governmental entity may approve an application for rezoning or take any other official action that would result in the removal or relocation of home owners living in a mobile home park. It also requires the governmental entity considering the rezoning or official action to prepare a good-faith estimate of the fiscal costs and benefits of the proposed change in land use. The written document substantiating the existence of adequate mobile home parks or facilities for relocation and the good-faith estimate must be available for public inspection and copying at least 10 days prior to the meeting during which the rezoning or other official act is scheduled to be considered.

Effect of Proposed Changes – Teacher Recruitment and Retention

The bill amends s. 420.9075, F.S., to require the inclusion of specified provisions into a SHIP local housing assistance plan. The bill provides that down payment assistance to eligible persons meeting the following criteria:

- Be employed full time as a K-12 classroom teacher in Florida.
- Be state certified in a critical need area of exceptional student education, mathematics, or science.
- Declare homestead and maintain residency at that homestead.
- Be employed in a full-time permanent capacity.
- Demonstrate a 5-year minimum commitment to continued employment as a K-12 classroom teacher in a school within the county of current employment.

The bill requires the local school district to verify compliance with the employment eligibility criteria during the life of the loan.

The bill states that down payment assistance shall be provided in the amount of \$4,000 if the appropriate local government, subdivision or agency waives the impact fees incidental to the recipient's home purchase. Additionally, the program is required to provide \$4,000 as down payment assistance if the county or eligible municipality where the recipient resides provides funding through the SHIP Program.

The bill provides that a lien securing the assistance will be released if the recipient fulfills the 5-year commitment.

The bill encourages each county and eligible municipality to develop an element within its local housing assistance plan emphasizing teacher recruitment and retention.

The bill appropriates an unspecified sum from the Local Government Housing Trust Fund to the SHIP Program to provide funding for eligible teachers to assist in recruitment and retention.

C. SECTION DIRECTORY:

Section 1. Amends s. 163.31772 F.S., to cite legislative findings and intent relating to changes in land use affecting mobile home parks; to specify requirements regarding funding sources, rezoning, development agreements, and housing assistance.

Section 2. Amends s. 420.9072, F.S., conforming cross-references.

Section 3. Amends s. 420.9075, F.S., adding a new subsection (5), relating to required provisions of a local housing assistance plan to assist in the recruitment and retention of teachers.

Section 4. Amends s. 420.9079, F.S., conforming a cross-reference.

Section 5. Amends s. 723.061, F.S., to require that the notice of change of the use of the mobile home park include a statement of the existence of the relocation trust fund and that the affected resident may be entitled to receive financial assistance from that fund.

Section 6. Amends s. 723.06116, F.S., to authorize late fees to be imposed if a mobile home park owner does not make timely payments to the Florida Mobile Home Relocation Corporation.

Section 7. Amends s. 723.0612, F.S., to create time frames for submitting and processing applications for funding for relocation expenses by the relocation corporation.

Section 8. Amends s. 723.071, F.S., to specify legislative findings relating to the sale of mobile home parks and encourages owners to organize as homeowners' associations to negotiate with a park owner.

Section 9. Amends s. 723.072, F.S., to correct cross-references.

Section 10. Amends s. 723.083, F.S., to require local governments to document in writing the existence of facilities available for relocation of residents of a mobile home park and a written estimate of fiscal costs and benefits.

Section 11. Provides an appropriation of \$50 million from the State Housing Trust Fund.

Section 12. Provides an unspecified appropriation from the Local Government Housing Trust Fund to the Florida Housing Finance Corporation to provide funds for eligible teachers for affordable housing to assist with recruitment and retention.

Section 13. Effective date - Sections 11 and 12 of the bill take effect July 1, 2006. The remainder of the bill takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Not anticipated to be significant.

2. Expenditures:

Not anticipated to be significant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Florida Mobile Home Relocation Corporation estimates that the imposition of the graduated late fee will reduce the percentage of late payments to 12 percent, as compared to the 25 percent for fiscal year 2004-2005, and the total late fees collected would be \$7,560 per year.

2. Expenditures:

Current law requires a local government to determine that adequate mobile home parks or other suitable facilities exist for the relocation of the home owners before approving a rezoning application for a mobile home park. The bill requires the determination to be in the form of a written document. The bill also requires the governmental entity considering the rezoning or official action to prepare a good-faith estimate of the fiscal costs and benefits of such a change in land use.

The DCA is required to provide technical assistance to a local government or CRA that wishes to offer a transfer of development rights program or financial assistance as incentives for mobile home park owners to continue to provide affordable housing. There are costs associated with the research and development of these technical assistance programs, implementation, and outreach. The DCA is in the process of estimating these costs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Mobile home owners would benefit if local governments provide funding for relocation expenses when the owners are evicted from a park that is undergoing a change in land use. The mobile home park owners would benefit from any financial assistance provided by the local government.

D. FISCAL COMMENTS:

This bill requires a local government or CRA, having a mobile home park within its jurisdiction which is closing due to a change in the use of land, to use available funding sources to provide relocation assistance to the mobile home owners displaced by the change. The bill does not specify the amount of assistance that must be provided to the mobile home owners.

The bill appears to shift funding not create new revenues. The bill specifies in part "notwithstanding any other provision of law, a local government or community redevelopment agency is authorized to and shall....use revenues derived from sources that include...."

The bill is not anticipated to have a significant fiscal impact on state or local government. Funding for the operations of services should reflect a shift of appropriations from program to program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the Legislature has determined that such law fulfills important state interest and unless; funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; the Legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989 ...the law requiring such expenditure is approved by two-thirds of the membership of each house of the Legislature...

Article VII, Section 18(d) of the Florida Constitution, exempts laws having insignificant fiscal impacts from the requirements of the section. For purposes of legislative application of Article VII, Section 18 of the Florida Constitution, the term "insignificant" has been defined as a matter of legislative policy as an amount not greater than the average statewide population for the applicable fiscal year times ten cents.

The bill does not provide an additional revenue source or an appropriation to fund compliance with its terms. However, under the bill's provisions the overall fiscal impact on counties and municipalities should be insignificant. As a result, the bill would appear to be exempt from the provisions of Article VII, Section 18 of the Florida Constitution.

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

The bill specifically authorizes the Department of Community Affairs to adopt rules to promote the transfer of development rights for mobile home park owners who provide affordable housing.

The bill also specifically authorizes the Department of Community Affairs to adopt rules to promote housing assistance to mobile home park owners who provide affordable housing in urban areas.

The bill, beginning on line 178, specifies that

"the corporation [Florida Housing Finance Corporation] shall develop criteria to determine which persons are eligible to receive down payment assistance..."

The authority of the corporation may be clearer if the bill specifies that the criteria requirements be adopted by rule.

C. DRAFTING ISSUES OR OTHER COMMENTS:

NA.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 9, 2006, the Business Regulation Committee adopted a strike all amendment and voted the bill favorably with CS. The changes include the following:

- Specifies that any financial assistance paid by the local authorities is supplemental to the funding received by the mobile home owners from the relocation trust fund;

- Specifies that only very low, low, and moderate income individuals may receive financial assistance from the local authorities;
- Requires that the notice of change of the use of the mobile home park include a statement of the existence of the relocation trust fund and that the affected resident may be entitled to receive financial assistance from that fund; and
- Amends the fiscal impact study that must be completed by local governments to include “costs”, as well as, benefits of the change in the use of the park property.

On April 4, 2006, the Growth Management Committee adopted an amendment to HB 835. The amendment did the following:

- Restructured the K-12 teacher down payment assistance program outlined in the original bill to provide assistance under the SHIP Program to provide that down payment assistance to eligible persons meeting the following criteria:
 - Be employed full time as a K-12 classroom teacher in Florida.
 - Be state certified in a critical need area of exceptional student education, mathematics, or science.
 - Declare homestead and maintain residency at that homestead.
 - Be employed in a full-time permanent capacity.
 - Demonstrate a 5-year minimum commitment to continued employment as a K-12 classroom teacher in a school within the county of current employment.
- Requires the local school district to verify compliance with the employment eligibility criteria during the life of the loan.
- States that down payment assistance shall be provided in the amount of \$4,000 if the appropriate local government, subdivision or agency waives the impact fees incidental to the recipient’s home purchase.
- Requires the program to provide \$4,000 as down payment assistance if the county or eligible municipality where the recipient resides provides funding through the SHIP Program.
- Provides that a lien securing the assistance will be released if the recipient fulfills the 5-year commitment.
- Encourages each county and eligible municipality to develop an element within its local housing assistance plan emphasizing teacher recruitment and retention.
- Appropriates and unspecified amount from the Local Government Housing Trust Fund for the purpose of providing funds to eligible teachers to assist in recruitment and retention.